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VICTORIA BC V8N 2-59 CA CANADA

**COPY MAILED**

**DEC 14 2006**

**OFFICE OF PETITIONS**

In re Application of  
Harold Douglas Foster  
Application No. 10/600,028  
Filed: June 23, 2003  
Title of Invention: **PROTOCOL FOR AIDS  
PREVENTION AND TREATMENT BY  
NUTRITIONAL METHODS**

**ON PETITION**

This is a decision on the petition under 37 CFR 1.137(b)<sup>1</sup>, filed April 3, 2006, to revive the above identified application.

The petition under 37 CFR 1.137(b) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)". This is **not** a final agency decision.

This application became abandoned for failure to timely respond to the Notice to File Missing Parts mailed December 30, 2003. Accordingly, a Notice of Abandonment was mailed February 14, 2006.

Pursuant to 37 CFR 1.137(b) however, the instant petition lacks items (1) and (2) of the regulation.

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<sup>1</sup>Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The Notice mailed December 30, 2003 required the submission of replacement compact disks (CDs), properly labeled. A review of the file does not reveal that such CDs were included with the instant petition to revive as the instant petition was filed by facsimile transmission and notes that both the petition and the CDs were to be delivered by courier.

Additionally, with respect to the fees, the instant petition filed by facsimile transmission included a copy of a money order in the amount of \$750.00 for what we would presume was to pay the petition fee. If that money order was included with the petition and CDs to be delivered by courier, it also is not of record as having been received.

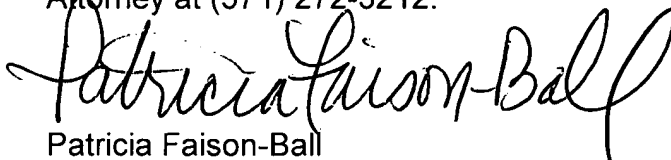
In view of the above, the application will remain in an abandoned status until such time as the replacement CDs, properly labeled and the petition fee in the amount of \$750.00 have been filed.

Further correspondence with respect to this matter should be addressed as follows:

By mail:        Mail Stop Petition  
                  Commissioner for Patents  
                  P.O. Box 1450  
                  Alexandria, VA 22313-1450

By FAX:        (571) 273-8300

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

A handwritten signature in black ink, reading "Patricia Faison-Ball". The signature is written in a cursive, flowing style with a large initial 'P'.

Patricia Faison-Ball  
Senior Petitions Attorney  
Office of Petitions